

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA (Scranton)

JANE DOE, et al.,

Plaintiffs,

v.

SCHUYLKILL COUNTY  
COURTHOUSE, et al.,

Defendants.

CIVIL ACTION – LAW

No. 3:21-cv-00477-MCC

MAGISTRATE JUDGE MARTIN C.  
CARLSON

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2023, upon consideration of the Motion to Strike of Defendant Glenn Roth, it is hereby ORDERED that said Motion is GRANTED. Plaintiffs' Statement of Undisputed Material Facts in Support of Plaintiffs' Brief in Opposition to Defendant Glenn Roth's Motion for Summary Judgment (ECF No. 278) is hereby STRICKEN.

BY THE COURT:

\_\_\_\_\_  
J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA (Scranton)

JANE DOE, et al.,	CIVIL ACTION – LAW
Plaintiffs,	No. 3:21-cv-00477-MCC
v.	MAGISTRATE JUDGE MARTIN C. CARLSON
SCHUYLKILL COUNTY COURTHOUSE, et al.,	<i>Electronically Filed</i>
Defendants.	<b>Jury Trial Demanded</b>

**DEFENDANT GLENN ROTH’S MOTION TO STRIKE PLAINTIFFS’  
STATEMENTS OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF  
PLAINTIFFS’ BRIEF IN OPPOSITION TO THE MOTION FOR  
SUMMARY JUDGMENT OF DEFENDANT GLENN ROTH (ECF No. 278)**

AND NOW, comes Defendant Glenn Roth, by and through undersigned counsel Margolis Edelstein, and files the within Motion to Strike Plaintiffs’ Statement of Undisputed Material Facts in Support of Plaintiffs’ Brief in Opposition to the Motion for Summary Judgment of Defendant Glenn Roth (ECF No. 278), and avers as follows:

1. Defendant Glenn Roth filed his Motion for Summary Judgment on July 31, 2023, docketed as ECF No. 243, and his Statement of Facts and Brief in Support of his Motion on August 14, 2023, docketed as ECF No. 255.

2. On September 20, 2023, Plaintiffs filed a Brief in Opposition to Defendant Roth's Motion for Summary Judgment docketed as ECF No. 276, Plaintiffs' Response to Defendant Roth's Statement of Undisputed Facts docketed as ECF No. 277 and a third filing, Plaintiffs' Statement of Undisputed Material Facts in Support of Plaintiffs' Brief in Opposition to Defendant Roth's Motion for Summary Judgment docketed as ECF No. 278.

3. Plaintiffs' additional Statement of Facts in Support of their Brief in Opposition (ECF No. 278) is not permitted by the Local Rules. See, Local Rule 56.1.

4. Plaintiffs' additional Statement of Facts in Support of their Brief in Opposition (ECF No. 278) further contains immaterial averments, which are not responsive to Defendant Roth's Motion for Summary Judgment and does not assist the Court in resolving Defendant's Motion for Summary Judgment.

5. Plaintiffs' additional Statement of Facts in Support of their Brief in Opposition (ECF No. 278) is nothing more than an inappropriate attempt to create an issue of fact to survive Defendant's Motion, which should be stricken and not considered by this Court.

6. Local Rule 56.1 states, in summary, that a party opposing a motion for summary judgment may only file a statement of facts responding to the numbered paragraphs set forth in the moving party's statement of facts. See, *Romero v. Tobyhanna Township*, 2021 WL 403783, at \* 2. (M.D. Pa. Sept. 3, 2021). The local

rule **does not permit a non-moving party to file an additional statement of material facts** that does not respond to the movant's statement. *Id.* (emphasis added).

7. Plaintiffs responded to Moving Defendant's Motion for Summary Judgment in ECF No. 277. Plaintiffs' additional filing, which Moving Defendant seeks to have stricken (ECF No. 278), is therefore an impermissible attempt to persuade this Court and create issues of fact where none exist. See, *McClure v. Love's Travel Stop & Country Store*, 2023 WL 3609158, n.1 (M.D. Pa. May 23, 2023).

8. Additionally, Plaintiffs' additional Statement of Facts in Support of their Brief in Opposition (ECF No. 278) is unduly prejudicial and burdensome to Defendant due to its excessive length. Specifically, Plaintiffs' additional Statement of Facts (ECF No. 278) is 253 single-spaced paragraphs which spans 43 pages, and an additional 549 pages of Exhibits. It is worth noting that a significant portion of said paragraphs are not referenced or cited in Plaintiffs' Brief.

9. Plaintiffs' lengthy additional Statement of Facts is also separate and in addition to the 45-page filing in Response to Defendant Roth's Statement of Facts (ECF No. 277) and the 504 pages of Exhibits thereto.

10. Even if a non-moving party was permitted to file an additional statement of facts, Plaintiffs' filings are not short, concise, or limited to the material facts contemplated by the Local Rules. See, M.D. Pa. L.R. 56.1.

11. The clear purpose of Local Rule 56.1's requirement is to "structure a party's summary judgment legal and factual theories into a format that permits the court's direct and accurate consideration of the motion." *Hartson v. Throop Borough*, 2009 WL 761270, at \*3 (M.D. Pa. March 19, 2009). Without question, Plaintiffs' additional Statement of Facts in Support of their Brief in Opposition (ECF No. 278) directly contradicts this goal.

12. For the reasons set forth herein and expanded upon fully in Defendant's accompanying Brief in Support, Plaintiffs' Statement of Facts in Support of their Brief in Opposition to Defendant Roth's Motion for Summary Judgment (ECF No. 278) should be stricken.

**WHEREFORE**, Defendant Glenn Roth respectfully requests that this Honorable Court grant his Motion to Strike for the reasons set forth above.

**MARGOLIS EDELSTEIN**



BY: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was served upon the following counsel of record via ECF:

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